

## **AMENDMENT TO FRANCHISE AGREEMENT**

**July 20, 2010**

This Amendment to the Franchise Agreement for solid waste collection, disposal, and recycling services is made this 24th day of August 2010, by and between the City of Wheatland, California (CITY) and Recology Yuba-Sutter [formerly Yuba-Sutter Disposal, Inc. (YSDI)].

### **RECITALS**

A. On September 9, 1991, CITY entered into an exclusive franchise agreement (Agreement) with RECOLOGY YUBA-SUTTER for the collection of refuse within the corporate limits of CITY.

B. CITY and Recology Yuba-Sutter mutually desire to amend the Franchise Agreement by executing this amendment (Amendment) to adjust residential, commercial and debris box collection rates effective October 1, 2010 to reflect the Indexed Rate Adjustment per the Rate Adjustment Guidelines; the fuel price differential for the last three months of Rate Year 2009 (July 1, 2009 – September 30, 2009); the fuel price differential for the first nine months of Rate Year 2009 (October 1, 2009 – June 30, 2010); rate adjustments to remove property taxes associated with the Household Hazardous Waste (HHW) Facility in Yuba City; and, the suspended pay increase for Rate Year 2010 for non-union workers. CITY and Recology Yuba-Sutter also mutually desire to amend the Franchise Agreement by executing this Amendment to establish a new fuel price allowance of \$2.78 per gallon for Rate Year 2011.

### **NOW, THEREFORE THE PARTIES TO THE FRANCHISE AGREEMENT AND THIS AMENDMENT AGREE AS FOLLOWS**

#### **1. SERVICE RATES**

The rates charged by Recology Yuba-Sutter for the services provided pursuant to the Franchise Agreement, as amended, for the period October 1, 2010 through September 30, 2011, are specified in Exhibit A to this Amendment.

#### **2. ULTRA-LOW-SULFUR DIESEL FUEL PRICES**

The service rates adopted by previous Amendments to the Agreement provided for Recology Yuba-Sutter to purchase 513,805 gallons of ultra-low-sulfur diesel (ULSD) fuel (539,989 gallons x 95.151 percent RWMA-related activities) at a cost of \$4.00 per gallon during Rate Year 2009. These Amendments further stipulated that the service rates for Rate Year 2010 and Rate Year 2011 were to be adjusted to reflect the difference between the agreed to and the weighted average of the actual fuel price for Rate Year 2009 multiplied by the 513,805 gallon fuel allowance.

Because only nine (9) months of Rate Year 2009 would have elapsed before the rate adjustment adoption process needed to commence for the new service rates to become effective October 1, 2010, Recology Yuba-Sutter and the CITY agreed that the Rate Year 2010 service rates were to be adjusted to reflect the difference between the agreed to and weighted average of the actual fuel prices for the period of October 1, 2008 through June 30, 2009, multiplied by the 513,805 gallon fuel allowance pro-rated by the fraction (9/12) representing this time period compared to a one-year period. The Rate Year 2010 service rates were adjusted to reflect the difference for the first nine (9) months of Rate Year 2009. Recology Yuba-Sutter and the CITY further agreed that the Rate Year 2011 service rates were to be adjusted to reflect any difference in the fuel prices between the rate adjustment calculated for the fuel price difference for the first nine (9) months of Rate Year 2009 and the total rate adjustment calculated

based on the fuel price difference for all of Rate Year 2009. The base service rates in Exhibit A to this Amendment reflect this fuel price difference for all of Rate Year 2009.

The service rates adopted by previous Amendments to the Agreement provided for Recology Yuba-Sutter to purchase 428,060 gallons of ultra-low-sulfur diesel (ULSD) fuel (445,432 gallons x 96.1% percent RWMA-related activities) at a cost of \$2.65 per gallon during Rate Year 2010 and Rate Year 2011. For Rate Year 2011, the \$2.65 per gallon price was to be adjusted by 80 percent of the annual change in the Consumer Price Index for all Urban Consumers (West Urban 1982-84 = 100) published by the Department of Labor, Bureau of Labor Statistics. The base service rates in Exhibit A to this Amendment reflect this fuel price difference for the period October 1, 2009 through June 30, 2010 multiplied by the 428,060 gallon fuel allowance pro-rated by the fraction (9/12) representing this time period compared to a one-year period.

Recology Yuba-Sutter and the CITY agree that the service rates for Rate Year 2011 shall be adjusted to reflect an increased fuel price allowance of \$2.78 per gallon, rather than the \$2.70 per gallon fuel price allowance resulting from the indexed adjustment. As previously agreed, because the Agreement term expires at the end of the first three (3) months of Rate Year 2012, adjustments for the Rate Year 2011 fuel price allowance will have to be factored into the service rates for the first three (3) months of Rate Year 2012 which may require that the rate adoption process be slightly delayed. If a new agreement is made between the CITY and Recology Yuba-Sutter for the period beginning January 1, 2012, or earlier, provisions may be included in the new agreement for the difference between the agreed to and actual weighted average fuel price for Rate Year 2011 to be included in future rate adjustments.

### 3. OTHER SERVICE RATE ADJUSTMENTS

Recology Yuba-Sutter and the CITY agree that the service rates for Rate Year 2011 shall be adjusted to remove property taxes associated with the Household Hazardous Waste (HHW) Facility in Yuba City. The RWMA assumed ownership of the HHW Facility effective January 1, 2007 and Sutter County made a subsequent tax roll correction to eliminate the taxable possessory interest assessment charged to Recology Yuba-Sutter and refund all tax payments made by Recology Yuba-Sutter since the facility was transferred to the RWMA through Rate Year 2010. This refund was remitted by Recology Yuba-Sutter to the RWMA where it was deposited into the Rate Stabilization Fund. The base service rates in Exhibit A to this Amendment reflect the removal of the \$7,099.58 tax assessment from the service rates for Rate Year 2011.

Recology Yuba-Sutter and the CITY agree that the service rates for Rate Year 2011 shall also be adjusted to remove the suspended pay increase for Rate Year 2010 for non-union workers. The base service rates in Exhibit A to this Amendment reflect a credit of \$37,303.78 to the rate payers for the amounts collected in the Rate Year 2010 rates for the salary increases that were subsequently suspended.

**CITY OF WHEATLAND**

**YSDI**

By: \_\_\_\_\_  
Enita Elphick, Mayor

By: \_\_\_\_\_

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Attest:

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Lisa J. Thomason, City Clerk